

Protection of holders of unregistered trademark or other designations used in business transactions under Czech law and EU law

Abstract

This final thesis focuses on means of legal protection of holders of non-registered trademark or of another sign used in the course of trade under Czech and European law. First, it defines the legal branch of intellectual and industrial property, the term trademark and the system of Czech national trademarks. Due to extensive amendment of the Czech Trademarks Act based on the European Union Trade Marks Directive, effective from 1st January 2019, the final thesis begins with the description of the trademark legislation effective prior the amendment. Next chapter contains comparative analysis of former and current wording of the legislation following the legislative amendments of Czech Trademarks Act based upon the European Union Trade Marks Directive.

Further chapters of this final thesis describe in detail the distinctive character of the trademarks, use of the trademarks in the course of trade, likelihood of confusion on the part of the public and other legal issues relevant to the successful protection of the non-registered trademark or of another sign used in the course of trade under written law and established case law of the Czech and European courts. The most significant part of this final thesis focuses on notice of opposition and opposition proceedings, which the holder of non-registered trademark or of another sign used in the course of trade may use to prevent registration of the identical or similar trademark with the holder's non-registered trademark or another sign used in the course of trade.

The final thesis furthermore focuses on application for revocation and application for declaration of invalidity, i.e. legal instruments providing legal protection against identical or similar trademarks already registered within the register of trademarks maintained by the Industrial Property Office. The final thesis also describes the legal regulation of the company name and its legal protection by legal instruments of trademark and competition law. Competition law aspect is also present in another part of aforementioned chapter, which takes on the topic of legal protection of holders of non-registered trademark or of another sign used in the course of trade against unfair competition.

The last chapter summarizes protection of an European Union trademark, characteristics of European Union trademark system and its comparison with Czech legislation and registration process of the European Union trademark application, including legal protection of holders of non-registered trademark or of another sign used in the course of trade.

Keywords

Trademark, Unregistered Trademark, Unfair competition